

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

COSTCO WHOLESALE CORPORATION,

Plaintiff,

v.

ROGER HOEN, et al.,

Defendants, and

WASHINGTON BEER AND WINE  
WHOLESALE ASSOCIATION,

Intervenor-Defendant

No. C04-360P

AMENDED JUDGMENT

This action came to trial before the Court. The issues have been tried and a decision has been rendered. Based upon the Findings of Fact and Conclusions of Law entered in this matter, and the records and files herein, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

1. Judgment is entered in favor of plaintiff Costco Wholesale Corporation on Costco's First Claim, except on Costco's challenge to Washington's ban on retailer-to-retailer sales of beer and wine. As a result, the following challenged restraints are preempted by the federal Sherman Act, are

1 not shielded by the Twenty-first Amendment and are, thus, invalid and their enforcement is enjoined  
2 pursuant to Fed. R. Civ. Pro. 65(d) and 15 U.S.C. § 26:

- 3 a. "Post and Hold" policies that require manufacturers and distributors of beer and  
4 wine to "post" the prices of their products with the LCB and to "hold" those  
5 prices for a full calendar month. See RCW 66.28.180(2)-(3); WAC 314-20-  
6 100(2) & (5); WAC 314-24-190(2) & (5).
- 7 b. Uniform Pricing policies that require beer and wine distributors to sell their  
8 products to every retailer at the same price. See RCW 66.28.170; RCW  
9 28.180(2) & (3); WAC 314-24-140; WAC 314-20-100(2), (4) & (5); WAC  
10 314-24-190(2), (4) & (5).
- 11 c. Bans on Credit Sales of beer and wine. See WAC 314-13-015; RCW  
12 66.28.010; WAC 314-20-090; WAC 314-12-140(3).
- 13 d. Ban on Volume Discounts for sales of beer and wine. See RCW  
14 66.28.180(2)(d) & (3)(b); RCW 66.28.170; WAC 314-12-140(3).
- 15 e. "Delivered Pricing" policies that require distributors to sell beer and wine at the  
16 same "delivered" price to all retailers, even if the retailer pays the freight and  
17 picks up the goods itself. See RCW 66.28.180(2)(h)(ii).
- 18 f. "Central Warehousing" Bans that prohibit retailers from storing beer and wine  
19 at a central warehouse or from operating a warehouse that includes wine, see  
20 RCW 66.28.180(2)(h)(ii) and RCW 66.24.185(4), as well as restrictions that  
21 would limit the output of wine from a central warehouse operated by a retailer.  
22 See WAC 314-24-220(5).
- 23 g. Minimum Mark-Up policies that impose mandatory 10 percent mark-ups on the  
24 sale of beer and wine by manufacturers and distributors. See RCW  
25 66.28.010(2); RCW 66.28.180(2)(d) & (3)(b).

